

117TH CONGRESS  
1ST SESSION

# H. R. 4650

To amend title XVIII of the Social Security Act to provide for dental and oral health care benefits under the Medicare program.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2021

Ms. KELLY of Illinois (for herself, Mr. HORSFORD, Mr. BUTTERFIELD, Mr. PAYNE, and Mr. WELCH) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for dental and oral health care benefits under the Medicare program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicare Dental Cov-  
5       erage Act of 2021”.

6       **SEC. 2. DENTAL AND ORAL HEALTH CARE.**

7       (a) COVERAGE.—Section 1861(s)(2) of the Social Se-  
8       curity Act (42 U.S.C. 1395x(s)(2)) is amended—

1                             (1) in subparagraph (GG), by striking “and”  
2                             after the semicolon at the end;

3                             (2) in subparagraph (HH), by striking the pe-  
4                             riod at the end and adding “; and”; and

5                             (3) by adding at the end the following new sub-  
6                             paragraph:

7                             “(II) dental and oral health services (as defined  
8                             in subsection (III));”.

9                             (b) DENTAL AND ORAL HEALTH SERVICES DE-  
10 FINED.—Section 1861 of the Social Security Act (42  
11 U.S.C. 1395x) is amended by adding at the end the fol-  
12 lowing new subsection:

13                             “(III) DENTAL AND ORAL HEALTH SERVICES.—

14                             “(1) IN GENERAL.—The term ‘dental and oral  
15                             health services’ means items and services (other  
16                             than such items and services for which payment may  
17                             be made under part A as inpatient hospital services)  
18                             that are furnished during 2025 or a subsequent  
19                             year, for which coverage was not provided under  
20                             part B as of the date of the enactment of this sub-  
21                             section, and that are—

22                             “(A) the preventive and screening services  
23                             described in paragraph (2) furnished by a doc-  
24                             tor of dental surgery or of dental medicine (as

1 described in subsection (r)(2)) or an oral health  
2 professional (as defined in paragraph (4)); or

3 “(B) the basic treatments specified for  
4 such year by the Secretary pursuant to para-  
5 graph (3)(A) and the major treatments speci-  
6 fied for such year by the Secretary pursuant to  
7 paragraph (3)(B) furnished by such a doctor or  
8 such a professional.

9 “(2) PREVENTIVE AND SCREENING SERV-  
10 ICES.—The preventive and screening services de-  
11 scribed in this paragraph are the following:

12 “(A) Oral exams.

13 “(B) Dental cleanings.

14 “(C) Dental x-rays performed in the office  
15 of a doctor or professional described in para-  
16 graph (1)(A).

17 “(D) Fluoride treatments.

18 “(3) BASIC AND MAJOR TREATMENTS.—For  
19 2025 and each subsequent year, the Secretary shall  
20 specify—

21 “(A) basic treatments (which may include  
22 basic tooth restorations, basic periodontic serv-  
23 ices, tooth extractions, and oral disease man-  
24 agement services); and

1                 “(B) major treatments (which may include  
2                 major tooth restorations, major periodontic  
3                 services, bridges, crowns, and root canals);  
4                 that shall be included as dental and oral health serv-  
5                 ices for such year.

6                 “(4) ORAL HEALTH PROFESSIONAL.—The term  
7                 ‘oral health professional’ means, with respect to den-  
8                 tal and oral health services, a health professional  
9                 who is licensed to furnish such services, acting with-  
10                in the scope of such license, by the State in which  
11                such services are furnished.”.

12                (c) PAYMENT; COINSURANCE; AND LIMITATIONS.—

13                (1) IN GENERAL.—Section 1833(a)(1) of the  
14                Social Security Act (42 U.S.C. 1395l(a)(1)) is  
15                amended—

16                (A) in subparagraph (N), by inserting  
17                “and dental and oral health services (as defined  
18                in section 1861(ll))” after “section  
19                1861(hhh)(1)”;

20                (B) by striking “and” before “(DD)”; and

21                (C) by inserting before the semicolon at  
22                the end the following: “, and (EE) with respect  
23                to dental and oral health services (as defined in  
24                section 1861(ll)), the amount paid shall be the

1 payment amount specified under section  
2 1834(z)".

3 (2) PAYMENT AND LIMITS SPECIFIED.—Section  
4 1834 of the Social Security Act (42 U.S.C. 1395m)  
5 is amended by adding at the end the following new  
6 subsection:

7 “(z) PAYMENT AND LIMITS FOR DENTAL AND ORAL  
8 HEALTH SERVICES.—

9 “(1) IN GENERAL.—The payment amount  
10 under this part for dental and oral health services  
11 (as defined in section 1861(l)) shall be, subject to  
12 paragraph (3), the applicable percent (specified in  
13 paragraph (2)) of the lesser of the actual charge for  
14 the services or the amount determined under the  
15 payment basis determined under section 1848. In  
16 determining such amounts determined under such  
17 payment basis, the Secretary shall consider payment  
18 rates paid to dentists for comparable services under  
19 State plans under title XIX, under the TRICARE  
20 program under chapter 55 of title 10 of the United  
21 States Code, and by other health care payers, such  
22 as Medicare Advantage plans under part C.

23 “(2) APPLICABLE PERCENT.—For purposes of  
24 paragraph (1), the applicable percent specified in  
25 this paragraph is, with respect to dental and oral

1       health services (as defined in section 1861(l)) fur-  
2       nished in a year—

3               “(A) that are preventive and screening  
4       services described in paragraph (2) or basic  
5       treatments specified for such year pursuant to  
6       paragraph (3)(A) of such section, 80 percent;  
7       and

8               “(B) that are major treatments specified  
9       for such year pursuant to paragraph (3)(B) of  
10      such section—

11               “(i) in the case such services are fur-  
12       nished during 2025, 10 percent;

13               “(ii) in the case such services are fur-  
14       nished during 2026 or a subsequent year  
15       before 2029, the applicable percent speci-  
16       fied under this subparagraph for the pre-  
17       vious year, increased by 10 percentage  
18       points; and

19               “(iii) in the case such services are fur-  
20       nished during 2029 or a subsequent year,  
21       50 percent.

22       “(3) LIMITATIONS.—With respect to dental and  
23       oral health services that are—

24               “(A) preventive and screening oral exams,  
25       payment may be made under this part for not

1 more than two such exams during a 12-month  
2 period;

3 “(B) dental cleanings, payment may be  
4 made under this part for not more than two  
5 such cleanings during a 12-month period; and

6 “(C) not described in subparagraph (A) or  
7 (B), payment may be made under this part only  
8 at such frequencies and under such cir-  
9 cumstances determined appropriate by the Sec-  
10 retary.”.

11 (d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—

12 (1) IN GENERAL.—Section 1848(j)(3) of the  
13 Social Security Act (42 U.S.C. 1395w-4(j)(3)) is  
14 amended by inserting “(2)(II),” before “(3)”.

15 (2) EXCLUSION FROM MIPS.—Section  
16 1848(q)(1)(C)(ii) of the Social Security Act (42  
17 U.S.C. 1395w-4(q)(1)(C)(ii)) is amended—

18 (A) in subclause (II), by striking “or” at  
19 the end;

20 (B) in subclause (III), by striking the pe-  
21 riod at the end and inserting “; or”; and

22 (C) by adding at the end the following new  
23 subclause:

24 “(IV) with respect to 2025 and  
25 each subsequent year, is a doctor of

1                    dental surgery or of dental medicine  
2                    (as described in section 1861(r)(2)) or  
3                    is an oral health professional (as de-  
4                    fined in section 1861(lly)(4)).”.

5                    (3) INCLUSION OF ORAL HEALTH PROFES-  
6                    SIONALS AS CERTAIN PRACTITIONERS.—Section  
7                    1842(b)(18)(C) of the Social Security Act (42  
8                    U.S.C. 1395u(b)(18)(C)) is amended by adding at  
9                    the end the following new clause:

10                  “(vii) With respect to 2025 and each subse-  
11                  quent year, an oral health professional (as defined in  
12                  section 1861(lly)(4)).”.

13                  (e) DENTURES.—

14                  (1) IN GENERAL.—Section 1861(s)(8) of the  
15                  Social Security Act (42 U.S.C. 1395x(s)(8)) is  
16                  amended—

17                  (A) by striking “(other than dental)”; and  
18                  (B) by inserting “and excluding dental, ex-  
19                  cept for a full or partial set of dentures fur-  
20                  nished on or after January 1, 2025” after “co-  
21                  lostomy care”.

22                  (2) SPECIAL PAYMENT RULES.—

23                  (A) LIMITATIONS.—Section 1834(h) of the  
24                  Social Security Act (42 U.S.C. 1395m(h)) is

1               amended by adding at the end the following  
2               new paragraph:

3               “(6) SPECIAL PAYMENT RULE FOR DEN-  
4               TURES.—Payment may be made under this part  
5               with respect to an individual for dentures—

6               “(A) not more than once during any 5-year  
7               period (except in the case that a doctor or pro-  
8               fessional described in section 1861(l)(1)(A) de-  
9               termines such dentures do not fit the indi-  
10               vidual); and

11               “(B) only to the extent that such dentures  
12               are furnished pursuant to a written order of  
13               such a doctor or professional.”.

14               (B) APPLICATION OF COMPETITIVE ACQUI-  
15               SITION.—

16               (i) IN GENERAL.—Section  
17               1834(h)(1)(H) of the Social Security Act  
18               (42 U.S.C. 1395m(h)(1)(H)) is amended—

19               (I) in the subparagraph heading,  
20               by inserting “, DENTURES” after  
21               “ORTHOTICS”;

22               (II) by inserting “, of dentures  
23               described in paragraph (2)(D) of such  
24               section,” after “2011,”; and

(III) in clause (i), by inserting “,  
such dentures” after “orthotics”.

8                         “(D) DENTURES.—Dentures described in  
9                         section 1861(s)(8) for which payment would  
10                       otherwise be made under section 1834(h).”.

17                 “(C) CERTAIN DENTURES.—Those items  
18                 and services described in paragraph (2)(D) if  
19                 furnished by a physician or other practitioner  
20                 (as defined by the Secretary) to the physician’s  
21                 or practitioner’s own patients as part of the  
22                 physician’s or practitioner’s professional serv-  
23                 ice.”.

1       (f) EXCLUSION MODIFICATIONS.—Section 1862(a) of  
2 the Social Security Act (42 U.S.C. 1395y(a)) is amend-  
3 ed—

4                 (1) in paragraph (1)—  
5                         (A) in subparagraph (O), by striking  
6                             “and” at the end;

7                         (B) in subparagraph (P), by striking the  
8                             semicolon at the end and inserting “, and”; and

9                         (C) by adding at the end the following new  
10                             subparagraph:

11                         “(Q) in the case of dental and oral health serv-  
12                             ices (as defined in section 1861(l)) that are preven-  
13                             tive and screening services described in paragraph  
14                             (2) of such section, which are furnished more fre-  
15                             quently than provided under section 1834(z)(3) and  
16                             under circumstances other than circumstances deter-  
17                             mined appropriate under such section;”; and

18                         (2) in paragraph (12), by inserting before the  
19                             semicolon at the end the following: “and except that  
20                             payment may be made under part B for dental and  
21                             oral health services that are covered under section  
22                             1861(s)(2)(II)”.

23       (g) CERTAIN NON-APPLICATION.—

24                 (1) IN GENERAL.—Paragraphs (1) and (4) of  
25                     section 1839(a) of the Social Security Act (42

1 U.S.C. 1395r(a)) are amended by adding at the end  
2 of each such paragraphs the following: “In applying  
3 this paragraph there shall not be taken into account  
4 benefits and administrative costs attributable to the  
5 amendments made by section 2 (other than sub-  
6 section (g)) of the Medicare Dental Coverage Act of  
7 2021 and the Government contribution under sec-  
8 tion 1844(a)(5).”.

9 (2) PAYMENT.—Section 1844(a) of such Act  
10 (42 U.S.C. 1395w(a)) is amended—

11 (A) in paragraph (4), by striking the pe-  
12 riod at the end and inserting “; plus”; and

13 (B) by adding at the end the following new  
14 paragraph:

15 “(5) a Government contribution equal to the  
16 amount that is estimated to be payable for benefits  
17 and related administrative costs incurred that are  
18 attributable to the amendments made by section 2  
19 (other than subsection (g)) of the Medicare Dental  
20 Coverage Act of 2021.”.

21 (h) IMPLEMENTATION FUNDING.—

22 (1) IN GENERAL.—The Secretary of Health and  
23 Human Services (in this subsection referred to as  
24 the “Secretary”) shall provide for the transfer from  
25 the Federal Supplementary Medical Insurance Trust

1       Fund under section 1841 of the Social Security Act  
2       (42 U.S.C. 1395t) to the Centers for Medicare &  
3       Medicaid Services Program Management Account  
4       of—

5                     (A) \$20,000,000 for each of fiscal years  
6                     2022 through 2027 for purposes of imple-  
7                     menting the amendments made by this section;  
8                     and

9                     (B) such sums as determined appropriate  
10                  by the Secretary for each subsequent fiscal year  
11                  for purposes of administering the provisions of  
12                  such amendments.

13                 (2) AVAILABILITY.—Funds transferred pursu-  
14                 ant to paragraph (1) shall remain available until ex-  
15                 pended.

○